National Park Service
U.S. Department of the Interior

Effigy Mounds
National Monument

151 HWY 76
Harpers Ferry, IA 52146

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Superintendent's Compendium
Of Designations, Closures, Permit Requirements and Other Restrictions Imposed Under Discretionary Authority.

Approved: JAMES NEPSTAD

Digitally signed by JAMES NEPSTAD
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Jim Nepstad, Superintendent

A. INTRODUCTION

1. Superintendent's Compendium Described

The Superintendent's Compendium is the summary of park specific rules implemented under 36 Code of Federal Regulations (36 CFR). It serves as public notice, identifies areas closed for public use, provides a list of activities requiring either a special use permit or reservation, and elaborates on public use and resource protection regulations pertaining specifically to the administration of the park. The Superintendent's Compendium does not repeat regulations found in 36 CFR and other United States Code and CFR Titles, which are enforced without further elaboration at the park level.

The regulations contained in 36 CFR, Parts 1-7, are the basic mechanism used by the National Park Service (NPS) to preserve and protect the natural and cultural resources of the park and to protect visitors and property within the park. Parts 1 through 6 are general regulations applicable to all areas of the National Park system, and Part 7 contains special regulations specific to individual parks. Each of these Parts has many sections and subsections articulating specific provisions. Within some of these Part 1-7 sections and subsections, the Superintendent is granted discretionary authority to develop local rules to be responsive to the needs of a specific park resource or activity, park plan, program, and/or special needs of the general public.

As an example, 36 CFR 1.5(a) *Closures and Public Use Limits* provides the Superintendent certain discretion in allowing or disallowing certain activities. The authority granted by the Section, however, requires the Superintendent to comply with the Administrative Procedures Act (6 USC Section 551), which requires public notice on actions with major impact on visitor use patterns, park resources or those that are highly controversial in nature.

Another example is 36 CFR 1.6 *Permits*, which allows the Superintendent to require a permit for certain uses and activities in the park. This Section, however, requires that a list of activities needing a permit (and a fee schedule for the various types of permits) be maintained by the park.

A final example is 36 CFR 2.1(c) (1) *Preservation of Natural, Cultural and Archeological Resources*, which provides the Superintendent the authority to designate certain fruits, nuts, berries or unoccupied seashells which may be gathered by hand for personal use or consumption. This activity can occur, however, only if a written determination shows that the allowed activity does not adversely affect park wildlife, the reproductive potential of a plant species, or otherwise adversely affect park resources.

This Compendium should be used in conjunction with Title 36 CFR, Parts 1-7, to more fully understand the regulations governing the use and enjoyment of all the areas of the national Park System.

A copy of Title 36, CFR, can be purchased from the U.S. Government Printing Office at:

Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954

The CFR is also available on the Internet at:

http://www.access.gpo.gov/nara/cfr/waisidx_05/36cfrv1_05.html

2. Laws and Policies Allowing the Superintendent to Develop This Compendium

The National Park Service (NPS) is granted broad statutory authority under 16 United States Code (U.S.C.) Section 1 *et.seq.* (Organic Act of 1916, as amended) to "…regulate the use of the Federal areas known as national parks, monuments, and reservations…by such means and measures as conform to the fundamental purposes of the said parks…which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment for future generations" (16 U.S.C. Section 1). In addition, the NPS Organic Act allows the NPS, through the Secretary of the Interior, to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service" (16 U.S.C. Section 3).

In 1970, Congress amended the NPS Organic Act to clarify its intentions as to the overall mission of the NPS. Through the General Authorities Act of 1970 (16 U.S.C. Sections 1a1-1a8), Congress brought all areas administered by the NPS into one National Park System and directed the NPS to manage all areas under its administration consistent with the Organic Act of 1916.

In 1978, Congress amended the General Authorities Act of 1970 and reasserted System-wide the high standard of protection defined in the original Organic Act by stating "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined by Section 1 of this Title, shall be consistent with and founded in the purpose established by Section 1 of this Title, to the common benefit of all people of the United States."

16 U.S.C. Section 1c defines the National Park System as"…any areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes."

In addition to the above statutory authority, the Superintendent is guided by established NPS policy as found in the *NPS Management Policies* (2006). The Superintendent is also guided by more specific policies promulgated by the Director, National Park Service, in the form of Director's Orders. As stated in the Management Policies, the primary responsibility of the NPS is to protect and preserve our national natural and cultural resources while providing for the enjoyment of these resources by visitor and other users, as long as use does not impair specific park resources or overall visitor experience. The appropriateness of any particular visitor use or recreational experience is resource-based and will vary from park to park; therefore, a use or activity that is appropriate in one park area may not be appropriate in another. The Superintendent is directed to analyze overall park use and determine if any particular use is appropriate. Where conflict arises between use and resource protection, where the Superintendent has a reasonable basis to believe a resource is or would become impaired, than that Superintendent is obliged to place limitations on public use.

3. Consistency of This Compendium with Applicable Federal Law and Requirements

The Superintendent's Compendium is not considered a significant rule requiring review by the Office of Management and Budget under Executive Order 12866. In addition, this Compendium will not have a significant economic effect on a number of small entities nor impose a significant cost on any local, state or tribal government or private organization, and therefore does not fall under the requirements of either the Regulatory Flexibility Act or the Unfunded Mandates Reform Act.

The actions and requirements described in this Compendium are found to be categorically excluded from further compliance with the procedural requirements of the National Environmental Policy Act (NEPA) in Department of the Interior (DOI) Guidelines 516 DM 6 and as such, an Environmental Assessment will not be prepared.

4. Development of the Requirements of the Superintendent's Compendium

As outlined above, the NPS has broad authority and responsibility to determine what types of uses and activities are appropriate in any particular National Park System area. The requirements of the Superintendent's Compendium are developed through an analysis and determination process. The decision criteria used during this process are:

- Is there use or activity consistent with the NPS Organic Act and NPS policy?
- Is the use or activity consistent and compatible with the park's enabling legislation, management objectives, and corresponding management plans?
- Will the use or activity damage the park's protected natural and cultural resources and other protected values?
- Will the use or activity disturb or be in conflict with wildlife, vegetation, and environmental protection actions and values?
- Will the use or activity conflict with or be incompatible with traditional park uses and activities?
- Will the use or activity compromise employee or public safety?

5. Applicability of the Compendium

The rules contained in this Compendium apply to all persons entering, using, visiting or otherwise present on Federally owned lands, including submerged lands, and waters administered by the NPS within the legislative boundaries of the park. This includes all waters subject to the jurisdiction of the United States, including all navigable waters.

6. Enforcement of Compendium Requirements

NPS Law Enforcement Park Rangers enforce the requirements of the United State Code, 36 CFR, and this Superintendent's Compendium.

7. Penalties for Not Adhering to the Compendium Requirements

A person who violates any provision of the regulations found in 36 CFR, Parts 1-7, or provisions of this Compendium, is subject to a fine as provided by law (18 U.S.C. 3571) up to $5,000 for individuals and $10,000 for organizations, or by imprisonment not exceeding six months (18 U.S.C. 3559), or both, and shall be adjudged to pay all court costs associated with any court proceedings. You may receive a list of fines associated with any particular provision by contacting the Senior Law Enforcement Officer at the park address found below.

8. Comments on the Compendium

The Compendium is reviewed annually and revised as necessary. The park welcomes comments about its program and activities at any time.

Written comments on the Compendium may be submitted to:

Superintendent, Effigy Mounds National Monument
151 HWY 76
Harpers Ferry, IA 52146

9. Effective Date of the Superintendent Compendium

The Superintendent's Compendium is effective on the approval date listed on the first page of this document, and remains in effect until revised for a period up to one year.

10. Additional Information

Some of the terms used in this Compendium may have specific meaning defined in 36 CFR 1.4 *Definitions*.

11. Availability

Copies of the Compendium are available at the Effigy Mounds National Monument visitor center, which is located at 151 HWY 76, Harpers Ferry, Iowa. It may also be found online at www.nps.gov/efmo

B. SUPERINTENDENT'S COMPENDIUM

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of Effigy Mounds National Monument. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document identified by italicized print.

I. 36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the park, and the following closures are established for all or a portion of the park to all public use or to a certain use or activity:

Visiting Hours:

- The park is open during daylight hours. "Daylight hours" are defined as being one hour before sunrise until one hour after sunset. The superintendent makes exceptions to these limits for evening programs, approved special use permits or approval on an individual basis.

Reason for Determination:
Visiting hours: With the establishment of the Park, the President of the United States proclaimed that no unauthorized person shall "appropriate, injure, destroy, or remove any feature of this monument

and not to locate or settle upon any of the lands thereof". There are no overnight camping facilities in the park, and except for scheduled evening interpretive programs there is no valid scientific or educational reason to allow visitor use of the park after dark. This would leave the site vulnerable to looting or vandalism if it remained open to the public. Visiting is therefore limited to daylight hours.

Closures:

- The superintendent reserves the right to close the park or portions thereof, for resource management purposes, non-public meetings, tribal government-to-government meetings and consultations, public holidays, national security or emergency situations.

- All rock faces along the Mississippi and Yellow Rivers are closed to both free and technical rock climbing.

Reason for Determination:
Technical and free climbing of any rock faces along the Mississippi and Yellow Rivers may potentially damage archaeological resources and/or rare, threatened or endangered plant or animal communities. Climbing in these areas is therefore prohibited.

- All rock shelters located in the North, South and Heritage Addition units are closed to public access unless authorized by the superintendent or their designee.

Reason for Determination:
Unauthorized access to rock shelters located in the North, South and Heritage Addition units may potentially damage archaeological resources. Accessing these areas without authorization is therefore prohibited.

Closures (continued):

- Launching, landing, or operating an unmanned aircraft from or on lands and waters administered by the National Park Service within the boundaries of Effigy Mounds National Monument is prohibited except as approved in writing by the superintendent.

Definition: The term "unmanned aircraft" means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, communication links.) This term includes all types of devices that meet this definition (e.g. model airplanes, quadcopters, drones) that are used for any purpose, including for recreation or commerce.

Reason for Determination:
Effigy Mounds National Monument is a pre-European contact ceremonial and burial area. Respect for the prehistoric builders of the sites and appropriate interpretation and protection of the surviving features requires decorum from visitors. Appropriate scientific and educational activities of the site would be adversely impacted by allowing the unregulated use of unmanned aircraft within the Monument.

(a)(2) The following areas have been designated for a specific use or activity, under the conditions and/or restrictions as noted:

- Picnicking is permitted in the public use areas adjacent to the parking lots. Picnicking along public trails and adjacent to mound groups is prohibited.

Reason for Determination:
Effigy Mounds National Monument exists to preserve and protect ceremonial and burial areas for prehistoric cultures of the region. Respect for the prehistoric builders of the sites and appropriate

interpretation and protection of the surviving features requires decorum from visitors. There is no valid educational reason to allow picnicking activities in these areas.

- Recreational activities such as frisbee throwing, ball playing, etc. are restricted to the mowed turf area between State Highway 76 and the visitor center entrance drive at park headquarters. Activities are further restricted, at the discretion of the superintendent, to those that are low impact and do not result in damage to turf or other resources, or cause undue interference with other visitors to the park. (See attached *Low Impact Recreational Activities* map)

Reason for Determination:
Effigy Mounds National Monument exists to preserve and protect ceremonial and burial areas for prehistoric cultures of the region. Respect for the prehistoric builders of the sites and appropriate interpretation and protection of the surviving features requires decorum from visitors. There is no valid educational reason to allow sport-like recreational activities in these areas.

Boat Launching Sites:
- Watercraft may be launched from the boat ramp at the Sny Magill Unit.

Wakeless Areas:
- The Yellow River is a no wake zone.

Reason for Determination:
Restrictions on Specified Uses: River access points and wakeless areas at Effigy Mounds National Monument reflect the very limited number of river public access points within the park and the fragile nature of the foreshore.

The following restrictions and/or conditions are in effect for the specific uses or activities noted:

Passenger Carrying Busses:
- Engines must be shut down when not underway.

Reason for Determination:
The idling of bus engines adds unnecessary exhaust fumes to the air and diminishes the enjoyment by visitors of the peace and tranquility of the park.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

(f) The following is a compilation of those activities for which a permit from the superintendent is required:

- §2.2(e) Viewing wildlife with artificial light
- §2.4(d) Carry or possess a weapon, trap, or net (excluding firearms)
- §2.5(a) Specimen collection (Take plant, fish, wildlife, rocks or minerals)
- §2.12 Audio Disturbances:
  - (a)(2) Operating a chain saw in developed areas
  - (a)(3) Operation of any type of portable motor or engine, or device powered by a portable motor or engine in non-developed areas

    - (a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to §2.50 or §2.51

- §2.17 Aircraft & Air Delivery:
    - (a)(3) Delivery or retrieval of a person or object by parachute, helicopter or other airborne means
    - (c)(1) Removal of a downed aircraft

- §2.37 Soliciting or demanding gifts, money goods or services (Pursuant to the terms and conditions of a permit issued under §2.50, §2.51 or §2.52)

- §2.38 Explosives:
    - (a) Use, possess, store, transport explosives, blasting agents
    - (b) Use or possess fireworks

- §2.50(a) Conduct a sports event, pageant, regatta, public spectator attraction, entertainment, ceremony, and similar events

- §2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views

- §2.52(c) Sale or distribution of printed matter that is not solely commercial advertising

- §2.60(b) Livestock use

- §2.61(a) Residing on federal lands

- §2.62 Memorialization:
    - (a) Erection of monuments (Requires approval from Regional Director)
    - (b) Scattering ashes from human cremation

- §3.3 Use of a vessel

- §4.11(a) Exceeding of established vehicle load, weight and size limits

- §5.1 Advertisements - (Display, posting or distribution.)

- §5.3 Engaging in or soliciting any business (Requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations).

- §5.5 Commercial Photography/Filming:
    - (a) Commercial filming of motion pictures or television involving the use of professional casts, settings or crews, other than bona fide newsreel or news television
    - (b) Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising.

- §5.6(c) Use of commercial vehicles on park area roads (The superintendent shall issue a permit to access private lands within or adjacent to the park when access is otherwise not available)

- §5.7 Construction of buildings, facilities, trails, roads, boat docks, path, structure, etc.

Reason for Determination:
Activities that require a permit: The listed activities may be appropriate in very limited situations, or may be compatible with the purposes of the park for specific educational or commemorative events. Some situations may make the park the appropriate space for the exercise of Constitutionally protected rights. Therefore, the listed activities may be permitted with the approval of the Park Superintendent.

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(a)(5) The following conditions are in effect for walking, climbing, entering, ascending or traversing the listed archeological or cultural resource, monuments or statues:

- Walking on identifiable mounds, cultural and archaeological resources is prohibited.
- All rock shelters located in the North, South and Heritage Addition units are closed to public access unless permitted in writing by the superintendent or their designee.

Reason for Determination:
Walking on known mounds and cultural and archaeological resources may damage the resource, and there is no valid interpretive or educational reason for walking on the mounds. Native American tribal authorities have expressed concerns that walking on the mounds is disrespectful to those that were buried in the mounds. Mounds are therefore closed to foot travel.

(b) Hiking or pedestrian traffic is restricted to the trail or walkways as listed in Section 1.5 of this document.

36 CFR §2.2 - WILDLIFE PROTECTION

(d) The transporting of lawfully taken wildlife through the park is permitted under the following conditions and procedures:

- Legally obtained wildlife that is within the limits of federal and state laws may be transported through the Sny Magill Unit public access road.

Reason for Determination:
The superintendent has determined that the transportation of legally obtained wildlife through the Sny Magill Unit public access corridor poses an acceptable level of risk to the general public and wildlife within the park.

36 CFR §2.4 – WEAPONS, TRAPS, AND NETS

(a)(2)(i) Weapons, traps, or nets may only be carried, possessed or used at the following designated times and locations:

- Possession of weapons, traps and nets is allowed within the Sny Magill Unit public access corridor, provided such implements are legally possessed and being used outside the park in accordance with state and federal law, and (with the exclusion of firearms) are rendered temporarily inoperable or are packed, cased or stored in a manner that will prevent their ready use. A person may possess, carry, and transport firearms within Effigy Mounds National Monument in accordance with State of Iowa and Federal laws.

Reason for Determination:
The possession of weapons, traps and nets is permitted within the Sny Magill Unit public access corridor, and poses a limited, and acceptable level of risk to the general public and wildlife within the park, provided such implements are possessed and being used in accordance with state and federal law, and (with the exception of firearms) are rendered temporarily inoperable or are packed, cased or stored in a manner that will prevent their ready use. A person may possess, carry, and transport firearms within Effigy Mounds National Monument in accordance with State of Iowa and federal laws.

(a)(2)(h) Notwithstanding any other provision in this Chapter, a person may possess, carry, and transport concealed, loaded, and operable firearms within a national park area in accordance with the laws of the state in which the national park area, or that portion thereof, is located, except as otherwise prohibited by applicable Federal law.

This authority does not extend to Federal facilities within the park (18 U.S.C. 930(a)). Federal facilities include: the Visitor Center, the Administrative / Management offices, and the Maintenance facilities.

Reason for Determination:
Park regulation cannot be less restrictive than United States Code.

36 CFR §2.11 – PICNICKING

Most areas of the park have been closed to picnicking and are listed in section 1.5(a)(1) "Closures".

Picnicking is allowed on the grounds by the visitor center / parking area.

Conditions for Picnicking:

For the purposes of this section, picnicking is defined as more than the mere possession or consumption of food. It may include such activities as the spreading of blankets or ground covers, setting up tables and/or chairs, storage of food in coolers or other containers, or other similar social activities.

Reason for Determination:
Effigy Mounds National Monument is a pre-European contact ceremonial and burial area. Respect for the prehistoric builders of the sites and appropriate interpretation and protection of the surviving features requires decorum from visitors. Additionally, the park contains sensitive archeological features. Appropriate scientific and educational activities of these features would be adversely impacted by allowing picnicking throughout the grounds.

36 CFR §2.15 – PETS

(a)(3) Pets may be left unattended and tied to an object in the following areas, under the conditions noted:

- For the purpose of using the visitor center facilities (bathroom, drinking fountain), pets may be tied for a period no more than 5 minutes in the parking lot area adjacent to the visitor center.

(a)(5) Pet excrement must be disposed of in accordance with the following conditions:

- Pet excrement must be immediately collected by the pet handler and disposed of in the nearest trash receptacle.
- If there is not a trash receptacle in the area, the excrement shall be removed from the park.

Reason for Determination:
Pet owners are responsible for their animals, including cleaning up after them. The nature of the park, being a cemetery, requires that the park landscape be treated with respect and decorum.

36 CFR §2.16 – HORSES and PACK ANIMALS

(b) The use of horses or pack animals is allowed on the following trails, routes or areas:

- Horses and pack animals are permitted in the paved visitor center parking lot and the Sny Magill Unit access road and parking lot. Horses and pack animals are prohibited from all other park areas.
- Horses and pack animals are prohibited everywhere else within the Monument.
- Horses may not be fed within the Monument and owners must take away all horse manure.

Reason for Determination:
The superintendent has determined this restriction necessary to maintain public safety and for the protection of the cultural, environmental and scenic values of the park.

36 CFR §2.21 – SMOKING

(a) The following portions of the park, or all or portions of buildings, structures or facilities are closed to smoking as noted:

- Smoking is prohibited in all public buildings.
- Smoking on trails and other outside areas of the park may be prohibited during periods of high fire danger.

Reason for Determination:
The superintendent has determined this restriction is necessary for public health and safety.

36 CFR §2.35 –ALCOHOLIC BEVERAGES and CONTROLLED SUBSTANCES

(a)(3)(i) The following public use areas, portions of public use areas, and/or public facilities within the park are closed to consumption of alcoholic beverages, and/or to the possession of a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been opened, or whose seal has been broken or the contents of which have been partially removed:

The consumption of alcoholic beverages or the possession of an open container of an alcoholic beverage is prohibited in the following areas:

Inside the Visitor Center and within 100 feet of all Mound Groups

Reason for Determination:
The restriction is in place to protect facilities and resources from potential damage which may occur from liquid spills or the accumulation of refuse where receptacles are not appropriately present. No interpretive program is conducted which is contributory to alcohol consumption, and none are of a lengthy duration whereby refreshments are necessary to safely complete the program in its entirety. The Mound Groups that Effigy Mounds National Monument preserves and protects were ceremonial; and consumption of alcoholic beverages in the immediate vicinity of the burial areas may be considered disrespectful to many of the values and ideas that American Indians hold sacred.

36 CFR §3.6 – BOATING OPERATIONS

(d)(1) Vessels may not create a wake or exceed 5 mph in the following areas:

- Yellow River

(h) The following areas/sites are designated for the launching or recovery of vessels using a

trailer:

- Sny Magill Public Access Area

(i) The following areas/sites are designated for the launching or recovery of vessels propelled by machinery:

- Sny Magill Public Access Area

Reason for Determination:
Restrictions on Specified Uses: River access points and wakeless areas at Effigy Mounds National Monument reflect the very limited number of river public access points within the park and the fragile nature of the foreshore.

36 CFR §4.10 – TRAVEL ON PARK ROADS AND ROUTES

(a) Park roads, open for travel by motor vehicle are those indicated below, and/or as indicated in the following publication or document (attached hereto):

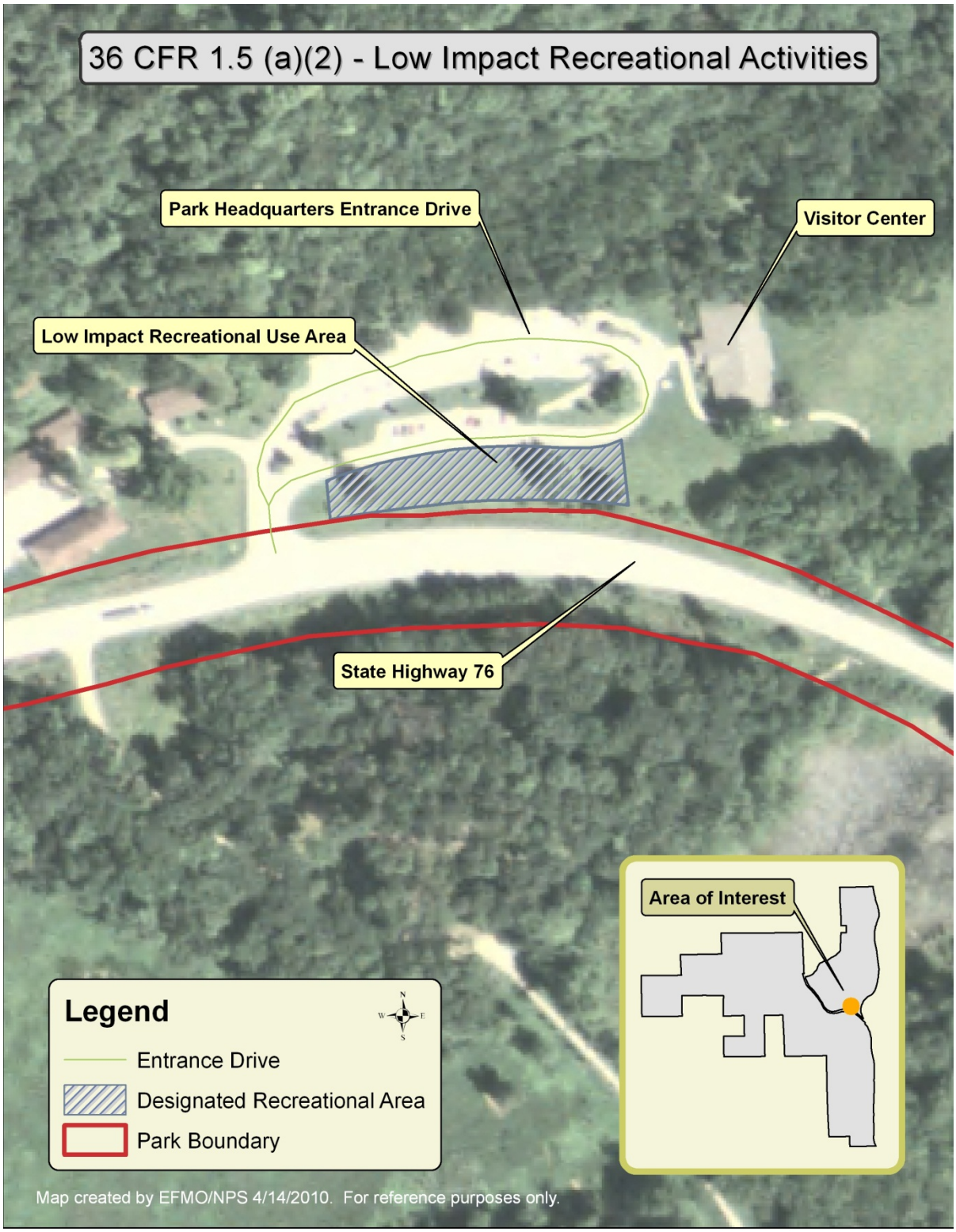
- Park Visitor Center / Headquarters Loop Road / Parking Area
- Sny Magill Public Access Roadway

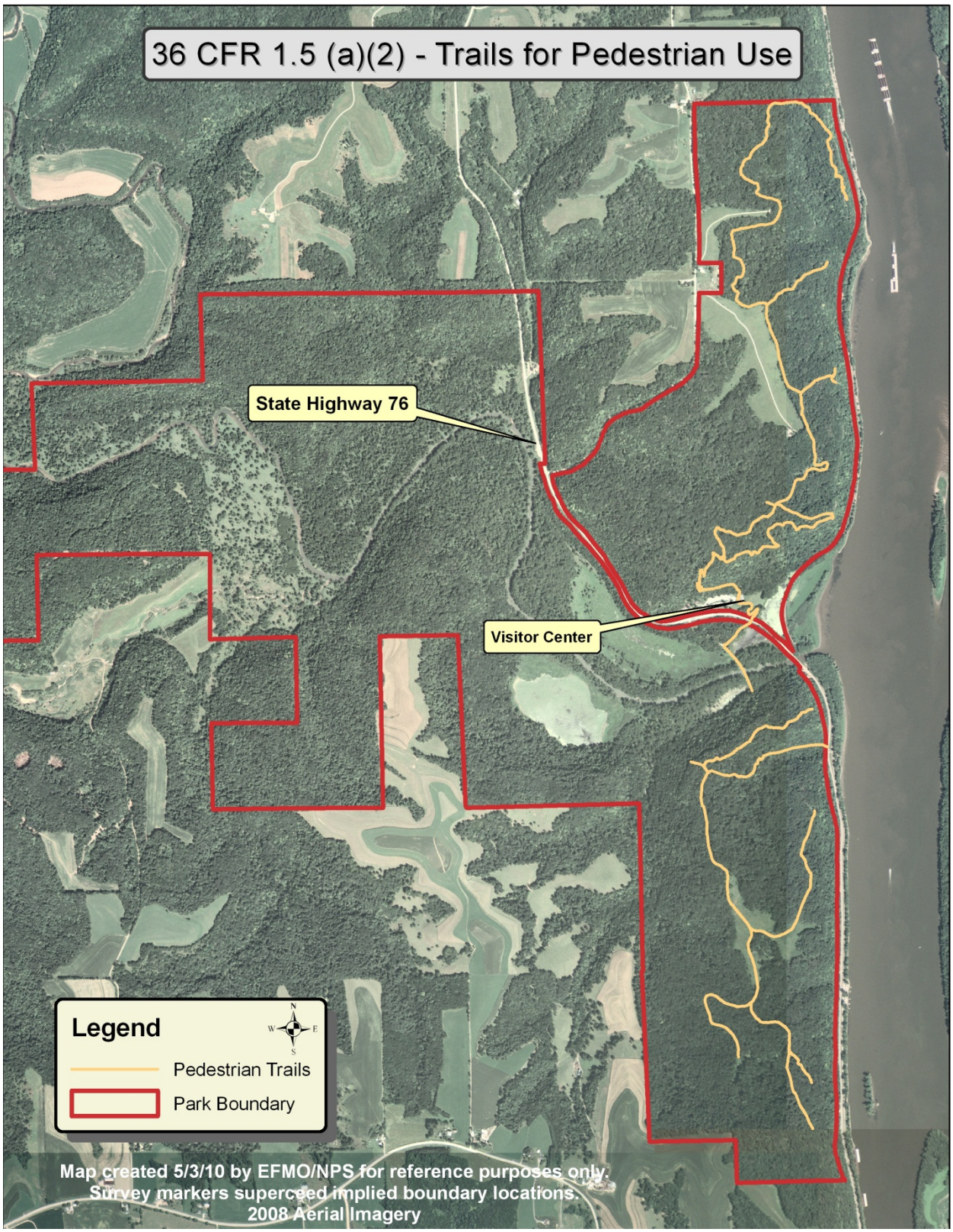
Reason for Determination:
These are the only roads within Effigy Mounds National Monument that are maintained to a standard suitable for public use.

36 CFR §4.21 – SPEED LIMITS

(b) The following speed limits are established for the routes/roads indicated:

- Park Visitor Center / Headquarters Loop Road / Parking Area: 5 MPH
- Sny Magill Public Access Roadway: 25 MPH


36 CFR 1.5 (a)(2) - Low Impact Recreational Activities
Park Headquarters Entrance Drive
Visitor Center
Low Impact Recreational Use Area
State Highway 76
Area of Interest
Legend
Entrance Drive
Designated Recreational Area
Park Boundary
Map created by EFMO/NPS 4/14/2010. For reference purposes only.


36 CFR 1.5 (a)(2) - Trails for Pedestrian Use
State Highway 76
Visitor Center
Legend
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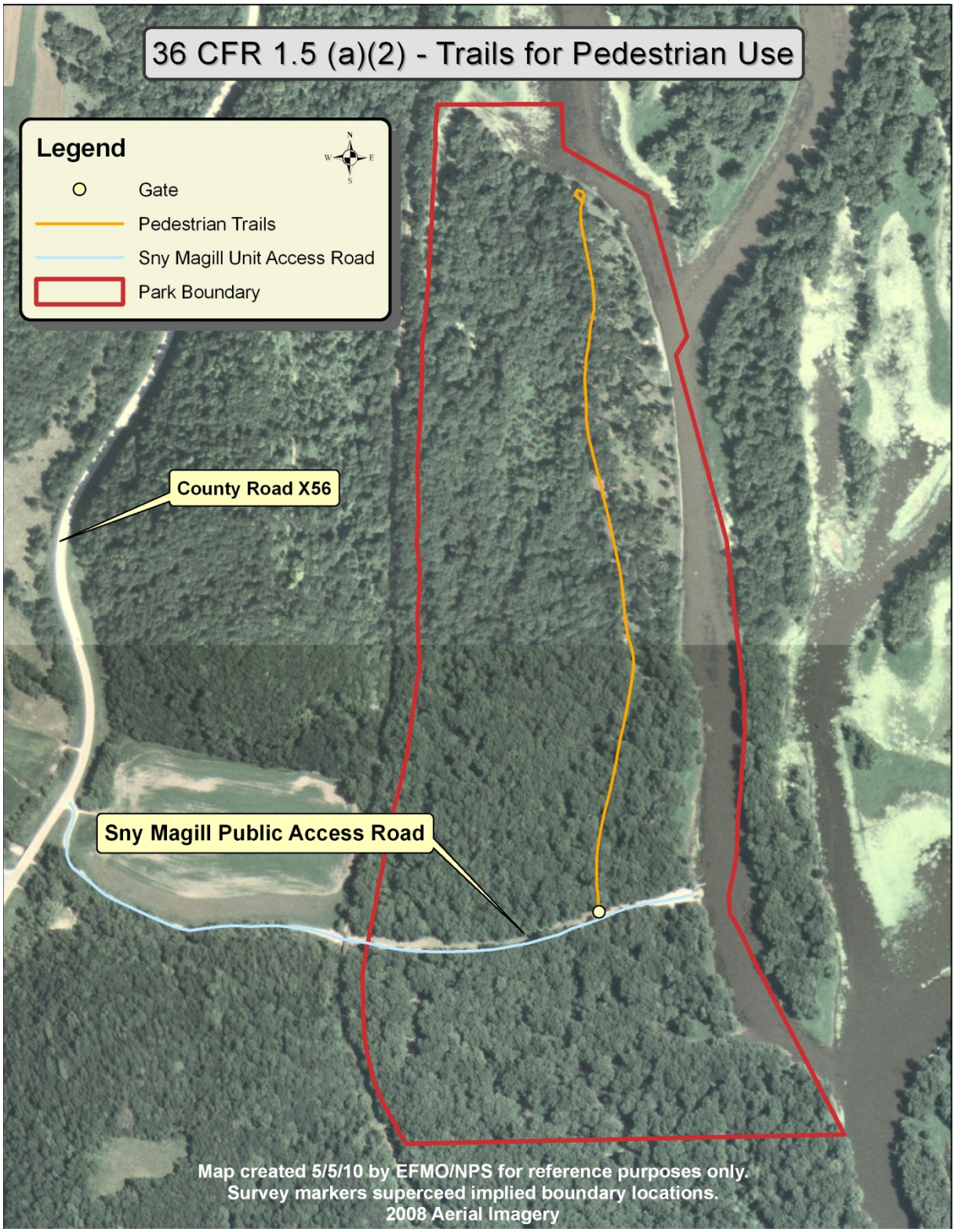
Pedestrian Trails
Park Boundary
Map created 5/3/10 by EFMO/NPS for reference purposes only.
Survey markers superceed implied boundary locations.
2008 Aerial Imagery


36 CFR 1.5 (a)(2) - Trails for Pedestrian Use
Legend
N
W
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Gate
Pedestrian Trails
Sny Magill Unit Access Road
Park Boundary
County Road X56
Sny Magill Public Access Road
Map created 5/5/10 by EFMO/NPS for reference purposes only.
Survey markers superceed implied boundary locations.
2008 Aerial Imagery